STATE OF NEW YORK

5368

2025-2026 Regular Sessions

IN ASSEMBLY

February 13, 2025

Introduced by M. of A. CUNNINGHAM -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to damaged, defective or duplicate ballots

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 8-316 of the election law is amended to read as follows:

§ 8-316. Ballots; [~~mutilated or spoiled~~] **damaged, defective or duplicative**. **1.** If a ballot is found to be **damaged or** defective [~~or mutilated~~] before it is delivered to the voter, its stub and the stubs of all other ballots in the set shall be **identified,** detached immediately**,** and placed in the box for stubs, by the clerks, or if there are no clerks by the inspector assigned to the duty of delivering ballots, and all the ballots of that set immediately shall be marked "cancelled", and placed in the box for [~~spoiled and mutilated~~] **damaged or defective** ballots. If a voter returns a ballot as **damaged,** defective, mutilated, defaced, or wrongly marked, [~~he~~] **such voter** shall also return all the other ballots of the set, if any, and such clerks or inspector shall likewise remove their stubs, placing all the stubs in the box for stubs and all the ballots of the set in the box for [~~spoiled or mutilated~~] **damaged or defective** ballots, first marking the ballots "cancelled". In each case, the voter shall receive another ballot or set of ballots, unless not entitled thereto.

2. (a) In preparing the voted ballots for processing, any ballot that is torn, bent, or otherwise damaged or defective shall be identified and set aside for duplication.

(b) If necessary, a true duplicate copy of the defective ballot shall be made and substituted therefor, by an election official who is part of an official duplication team, or who is accompanied by witnesses. The election official team or set of witnesses shall include members of

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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opposing political parties. Such election official shall examine the ballot to determine the intention of the voter insofar as it can be ascertained from the defective ballot. The election official shall copy the voter's choices from the original ballot onto a new ballot. All duplicate ballots shall be clearly labeled "duplicate", and shall bear a serial number that shall be recorded on the damaged or defective ballot, showing which is the duplicate and which is the original ballot. Such two ballots shall be connected and set aside with any other duplicated ballots to be preserved as part of the election record.

(c) Once the duplicate ballot is executed, it shall be scanned by the vote tabulation machine.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.